Remarks

Upon entry of the present amendments, Claims 1-37 are pending in the present application. Support for newly added Claims 33-37 may be found throughout the specification, claims and drawings of the application.

Based on at least the following remarks, reconsideration and allowance are respectfully requested for the pending claims:

Claim Rejections under McDonald

Claims 1-2, 4, 6-8, 16, 20-32 stand rejected under 35 U.S.C. §102(e) in view of McDonald et al. (U.S. Pat. Appln. No. 2004/0019558). In the context of the following remarks, applicant notes that, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." (See MPEP §706.02 - Rejection on Prior Art).

In contrast to McDonald, the independent claims of the present application recite, among other elements, a "securitization" limitation that contemplates processing data and information associated with "multiple assets" pursuant to securitization of the multiple assets. As those skilled in the art can appreciate, to "securitize" (i.e., the verb form of the noun form "securitization") means "to consolidate (as mortgage loans) and sell to other investors for resale to the public in the form of securities." (see Merriam-Webster Online Dictionary – www.m-w.com).

The securitization process is generally described in the "Description of the Invention Background" section of the present application (See, *e.g.*, para. 6 of the Specification):

In one example, a securitization may contain as many as several hundred loans, each with several hundred documents. A data file is provided to all prospective investors and contains many individual data points that must be tied to a specific document in the loan file. Prospectus material, loan sale agreements, and economic valuation models are based on this data. Because loans are usually made over a long period of time and may come from a number of lenders, a great challenge is presented by collecting, validating, standardizing, and distributing data to meet the standards required by the securities market.

In contrast to the subject matter of the pending claims, McDonald generally relates to a method and apparatus for collecting information necessary for originating a mortgage loan. McDonald specifically provides, "*a* mortgage loan and financial services data processing system...*to originate a real estate loan or mortgage transaction* for potential homebuyers or homeowners." (See McDonald "Summary of the Invention" – emphasis added). It is clear that McDonald relates to tracking information for a single loan for use in originating the loan, not for securitization of multiple assets. For example, McDonald calls for entry of property information for a single loan including "sales price of *home*" (emphasis added) meaning that a single asset (i.e., a single home) is associated with origination of the loan for the single asset. (See McDonald - box 220 of Fig. 3 of Sheet 7 of 47). Thus, not only is McDonald focused merely on loan origination, it is also focused only on processing data associated with a single asset for each loan origination, not preparing multiple assets for securitization.

Claim 1 of the present application recites, among other elements, "reviewing asset-related data contained on at least one document *pursuant to securitization of multiple assets*" and, "at least data related to multiple assets associated with a securitization *of said multiple assets*." (See Claim 1, emphasis added). Likewise, independent Claims 2, 21, 25,

and 30-32 have been amended to include and emphasize aspects of the invention performed, "pursuant to securitization of multiple assets" and other like aspects. Therefore, for at least the reason of its failure to teach, suggest or disclose the "multiple asset" or "securitization" limitations, applicant submits that McDonald does not anticipate the claims of the present application.

In the office action, the Examiner suggests that paragraph 316 of McDonald teaches "securitization" by the act of "gathering information and disclosing information to the buyer or borrower, and providing proper documentation to the lender or investor" (See Office Action, para. 12). Applicant respectfully disagrees with this interpretation of McDonald. As demonstrated above, while such acts may be performed in connection with securitization, the acts in and of themselves are clearly not within the meaning of "securitization of multiple assets" as understood by those skilled in the art.

Also, the Examiner points to paragraph 138 of McDonald as allegedly teaching "multiple assets associated with a securitization." (See Office Action, para. 12). In fact, McDonald discloses the following: "Box 376 shows the originator collects all applicable documentation on the stacking order checklist from the Borrower, including (but not limited to) W-2 forms, paystubs, bank statements, tax returns, bankruptcy papers, retirement information, etc." (See McDonald, para. 138). Applicant submits that the items of "documentation" listed in this paragraph do not constitute "assets" for purposes of the present claims; and even if such items were somehow deemed "assets" they could not be securitized in any manner in accordance with the definition of "securitization" as contemplated by the claims of the present application.

The Examiner further cites paragraphs 130 and 315 of McDonald as supporting the contention that McDonald teaches or suggests "flow basis" as that term is applied to the claims of the present application. Applicant submits, however, that these paragraphs are silent as to "flow basis," and that McDonald does not teach or suggest processing information or data as it becomes available or on a "flow basis" in accordance with aspects of the present invention. Even though McDonald may discuss automatic data transfer, for example, it is not apparent from reading McDonald how much data is actually entered at a given time, with what frequency data entered, or with what timing the data is entered. For example, there is no indication of whether or not a McDonald system collects and retains data in a queue prior to its entry into the system.

In contrast to this ambiguity in McDonald, the present claims clearly provide for "flow basis" processing of data and information. The specification of the present application describes collection or validation of information, "as the loan documents become available to those concerned with loan origination, maintenance, and securitization, thereby reducing or eliminating costly due diligence prior to securitization." (See Specification, paragraph 83). For example, in accordance with this teaching, Claim 1 of the present application recites, "receiving said document into said database on a *flow basis* including receiving information from said document into said database as said document information becomes available for entry into said database." (See Claim 1 - emphasis added). In contrast, McDonald does not teach, disclose or suggest a "flow basis" limitation in association with the timing of its data entry.

Dependent Claims 4, 6-8, 16 and 20 depend either directly or indirectly from independent Claim 2. As McDonald does not anticipate Claim 2 for at least the reasons set

forth above, McDonald fails to disclose all limitations of Claims 4, 6-8, 16 and 20 as "a dependent claim includes all the limitations of the claim from which it depends." *Wahpeton Canvas Co., Inc. v. Frontier, Inc.,* 10 USPQ2d 1201, 1208 (Fed. Cir. 1989).

Claims 22-24 depend either directly or indirectly from Claim 21 and are therefore also not anticipated by McDonald for the same reasons as Claim 21. *See Wahpeton Canvas.*

Also, for at least the reasons set forth above, McDonald does not anticipate Claim 25 and does not anticipate Claims 30-32. Claims 26-29 depend either directly or indirectly from Claim 25. As McDonald does not anticipate Claim 25, it also does not anticipate claims that depend from Claim 25.

In the Office Action, Claims 3, 5, 9-11, 12-14, 15, 17-19 were rejected as being obvious in view of McDonald taken in view of certain other references. One of the elements of a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is that the cited reference, or references when combined, must teach or suggest all of the claim limitations. *See* MPEP § 2142.

For purposes of various arguments presented herein, applicant invites attention to MPEP §2142, which reads, in pertinent part, as follows:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant further invites attention to MPEP §2143.03, which is entitled "All Claim Limitations Must Be Taught or Suggested" and which reads, in pertinent part, as follows:

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

At least for the reasons provided above, McDonald alone or in combination with the cited references does not teach, disclose or suggest all of the elements of the claims of the present application.

Each of Claims 3, 5, 9-11, 12-14, 15, and 17-19 depend from (either directly or indirectly) and further limit independent Claim 2. Because independent Claim 2 is allowable for at least the reasons set forth above, it follows that each of these dependent claims is also allowable. See MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) ("If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.")
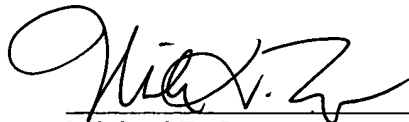
Based upon at least the foregoing reasons, McDonald as applied alone or in combination with any other reference, fails to teach all elements of the present claims. Applicant submits that a *prima facie* case of obviousness has not been established and that the claims are in condition for allowance.

Summary

Applicant respectfully requests withdrawal of the rejections set forth in the

Office Action and allowance of the present application. The Examiner is invited to contact

the undersigned representative by telephone to discuss any outstanding issues with the

present application.

Respectfully submitted,

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